



Docket No.: 235208US0



COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/718,531

Applicants: Beatrice PERRON, et al.

Filing Date: November 24, 2003

For: COSMETIC COMPOSITION CONTAINING
MINERAL PARTICLES AND A
POLYETHYLENEIMINE

Group Art Unit: 1751

Examiner: Delcotto, G.

SIR:

Attached hereto for filing are the following papers:

**Supplemental Request for Reconsideration; and
Rule 132 Declaration of Frank Giroud (Executed, 5 pp.).**

Our check in the amount of -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : .

Beatrice PERRON, et al. : EXAMINER: DELCOTTO, G.

SERIAL NO.: 10/718,531 : .

FILED: NOVEMBER 24, 2003 : GROUP ART UNIT: 1751

FOR: COSMETIC COMPOSITION CONTAINING
MINERAL PARTICLES AND A
POLYETHYLENEIMINE

DECLARATION UNDER 37 C.F.R. 1.132

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

I, Franch Girod, hereby declare:

1. I am employed by L'ORÉAL as an engineer and have experience in the field of preparing and analyzing compositions.
2. The following experiments were carried out by me or under my direct supervision and control.
3. The following compositions were prepared:

	Invention composition	Comparative Composition No. 1	Comparative Composition No. 2	Comparative Composition No. 3	Comparative Composition No. 4
TEA-Lauryl sulfate in aqueous solution (40% active material)	12.5 g (AM)	12.5 g (AM)	12.5 g (AM)	12.5 g (AM)	12.5 g (AM)
Cocamidopropyl-Betaine (Tego-Betaine F50 from Goldschmidt)	2.5 g (AM)	2.5 g (AM)	2.5 g (AM)	2.5 g (AM)	2.5 g (AM)
Polyethylene-imine (Lupasol FG from BASF)	0.008 g	0.5 g		0.008 g	0.5 g
Calcium carbonate (powder) (Omyapur 35 from Omya)	3 g	3 g	3 g		
Acrylic polymer (Aqua SF 1 from Noveon)	1.8 g (AM)	1.8 g (AM)	1.8 g (AM)	1.8 g (AM)	1.8 g (AM)
pH adjuster (qs)	pH 7	pH 7	pH 7	pH 7	pH 7
Preservatives	qs	Qs	qs	Qs	qs
NaCl	1.5 g	1.5 g	1.5 g	1.5 g	1.5 g
Water (qsp)	Qsp to 100	Qsp to 100	Qsp to 100	Qsp to 100	Qsp to 100

These compositions were virtually identical except for the amount of polyethyleneimine (PEI) and solid mineral particles (calcium carbonate) present. The invention composition contained PEI and solid mineral particles in a ratio of 0.0027.

4. In contrast, comparative composition no. 1 contained PEI and solid mineral particles in a ratio of 0.1667. Comparative composition no. 2 did not contain any solid mineral particles. Comparative composition nos. 3 and 4 did not contain any PEI. Also, comparative composition nos. 3 and 4 contained different amounts of solid mineral particles.

5. The following experiment was performed using all of these compositions: 1 gram of each composition was applied to virgin hair locks (20 cm long, 2.7 g weight) for 5 minutes. The hair was rinsed, and then dried for 30 minutes at 70°C.

6. Next, the smoothness of the dried hair locks was evaluated by six experts using the following scale: 0 corresponded to very bad smoothness (no slip, great difference between the root and the end of the hair), while 5 corresponded to very good smoothness (good slip, no difference between the root and the end of the hair, touch was homogeneous and not loaded). Thus, the higher the number resulting from this evaluation, the better smoothness properties the composition possessed. Such evaluative methods are commonly used in the cosmetics industry generally and in our laboratories specifically. The results of the testing are set forth in the following table.

	Invention composition	Comparative Composition No. 1	Comparative Composition No. 2	Comparative Composition No. 3	Comparative Composition No. 4
Smoothness of dried hair (mean)	3	2.2	1.5	1.5	2.4

The experts noted a marked improvement of the smoothness of hair treated with the invention composition containing 3 g of solid mineral particles and 0.008 g of PEI. Surprisingly,

however, compositions containing either 3 g of solid mineral particles (comparative composition no. 2) or 0.008 g of PEI (comparative composition no. 3) possessed extremely poor smoothness properties.

7. Furthermore, it was surprising that comparative composition no. 1 which contained PEI/solid mineral particles in a ratio of 0.1667 contained worse smoothness properties than comparative composition no. 4 (a composition which contained the same amount of PEI as comparative composition no. 1 (0.5 g) but which did not contain any solid mineral particles). This demonstrated that the combination of PEI and solid mineral particles does not always or necessarily result in improved smoothness properties.

8. Thus, the invention composition imparted hair with vastly different smoothness properties compared to the comparative compositions. This vast difference in cosmetic properties was surprising and unexpected given the similarity of the compositions.

9. The improved smoothness properties obtained with the invention composition are representative of the present invention. That is, I would expect shampoo or conditioner compositions containing a cosmetically acceptable medium, solid mineral particles comprising at least one element selected from the group consisting of columns IIa, IIIa and IVa of the Periodic Table of the Elements, and at least one polyalkyleneimine, wherein the polyalkyleneimine/mineral particle weight ratio is 0.1-0.0001, to possess improved smoothness properties like those of the exemplified invention composition. I have no reason to expect otherwise.

10. The difference in smoothness properties between the invention composition and the comparative compositions demonstrates the surprising and unexpected benefit derived from having the claimed solid mineral particles and the claimed PEI in the required ratio in the invention compositions.

11. The improved smoothness properties associated with the invention compositions are commercially significant. Clearly, shampoos or conditioners which increase the smoothness properties of hair to which they have been applied are more commercially viable than shampoo or conditioner compositions which do not provide hair with increased smoothness upon application.

12. The undersigned petitioner declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

13. Further deponent sayeth not.

Tranck Giroud
Name

S. J. H.

1

July 13 2006